

**BOROUGH OF WESTWOOD
NOTICE**

NOTICE IS HEREBY GIVEN that the following Ordinance was introduced and passed on first reading on regular meeting of the Mayor and Council on the 23rd day of June, 2009, and that said Ordinance will be taken up for further consideration for final passage at a regular meeting of the Mayor and Council to be held on the 21st day of July, 2009 at 8:00 p.m. or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning same.

Karen Hughes, Borough Clerk
Borough of Westwood

ORDINANCE NO. 09-15

AN ORDINANCE REGARDING FILMING

BE IT ORDAINED by the Mayor and Council of the Borough of Westwood as follows:

109-1. PURPOSE

The Borough of Westwood has determined that commercial filming is an important industry in the Borough and should be regulated to maintain the health and safety of all persons; mitigate the disruption to all persons within filming areas; maintain the safety of property within the Borough of Westwood; and control traffic congestion at certain locations within the Borough.

109-2. DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated:

- A. Regulated Filming: The taking of still or motion pictures whether on film, videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, in theatres, on the internet or for institutional uses, provided however that persons engaged in Regulated Filming which is limited to hand held cameras with so set, direction, support staff or accessory equipment shall be exempted.
- B. Motion picture, television, still photography: Shall mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercials in any medium including film, tape or digital format.

- C. Charitable films: Shall mean commercials, motion pictures, television, videotapes, or still photography produced by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes, or photos.
- D. News Media: Shall mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or cameramen.
- E. Studio: Shall mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.
- F. Public Lands: Any and every public street, highway, sidewalk, square, public park or playground or any other public place within the Borough which is within the jurisdiction and control of the Borough of Westwood.

109-3. PERMIT REQUIRED AND EXEMPTIONS

A. PERMIT REQUIRED:

- (1) No person or organization shall undertake or permit regulated filming on public property within the Borough of Westwood without first having obtained a permit from the office of the Borough Clerk, which permit shall set forth, among other appropriate conditions, the approved location of such filming and the approved duration of such filming by specific reference to day or dates. Said permit must be readily available for inspection by Borough officials at all times at the site of the filming.
- (2) All permits shall be applied for and obtained from the office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form approved by the Borough Clerk and be accompanied by a permit fee in the amount established by this chapter in 109-7 herein.
- (3) If a permit is issued and, due to inclement weather or other good cause, filming does not in fact take place on the dates specified, the Borough Clerk may, at the request of the applicant, issue a new or amended permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this permit.

B. EXEMPTIONS:

- (1) News Media: The provisions of this Ordinance shall not apply to or affect reporters, photographers or cameramen in the employ of a newspaper, news service, or similar

entity engaged in on-the-spot print media, publishing or broadcasting, of news events concerning those persons, scenes or occurrences which are in the news and of general public interest.

- (2) Family Video: The filming or videotaping of motion pictures solely for private-family use.
- (3) Studio Filming: Filming Activities (motion or still photography) conducted at a studio.

C. REQUIRES A PERMIT AND REDUCE FEE:

- (1) Charitable Films: Projects that qualify under Section 501 (c) (3) of the Internal Revenue Code.
- (2) Student Produced Films: Films must have been made in the school year and must have been produced for course credit or under the supervision of a faculty member. Applicant must be enrolled in or be a recent (one-year) graduate from an accredited post-secondary four-year institution or other selected university which offers a degree in film or television. Eligible films are those in which every major crew position was held by a student.

109-5. LIABILITY PROVISIONS

- A. Liability Insurance: Before a permit is issued, a certificate of insurance will be for bodily injury to any one person in the amount of \$1,000,000 and any occurrence in the aggregate amount of \$3,000,000 as well as for property damage for each occurrence in the aggregate amount of \$500,000. The Borough officers and employees shall be named as additional insured. The certificate shall not be subject to cancellation or modification until after thirty (30) days written notice to the Borough. A copy of the certificate will remain on file.
- B. Worker's Compensation Insurance: An applicant shall conform to all applicable Federal and State requirements for Worker's Compensation Insurance for all persons operating under a permit.
- C. Hold Harmless Agreement: An applicant shall execute a hold harmless agreement as provided by the Borough prior to the issuance of a permit under this ordinance. This agreement will be in writing, whereby the applicant agrees to indemnify and save harmless the Borough of Westwood from any and all liability, expense, claim or damages resulting from the use of public lands.
- D. Security Deposit: To ensure cleanup and restoration of the site, an applicant may be required to submit a refundable security deposit in the form of a cash bond. The posting of a cash bond of Five Hundred Dollars (\$500.00) or a maintenance bond of One Thousand

Dollars (\$1,000.00) running in favor of the Borough and protecting and insuring that the location utilized will be left after filming, in a satisfactory condition, free of debris, rubbish and equipment, and that due observance of all Borough ordinances, laws, and regulations will be followed. Within fourteen (14) business days of the completion of the filming, the Borough will return the bond if there has been no damage to public property or public expense caused by the filming.

- E. Child Labor Laws: An applicant shall conform to all applicable Child Labor Laws, including but not limited to N.J.S.A. 34:2-21.57-34:2-21.64 and N.J.A.C. 12:58-4:14.

109-6. FILMING REGULATIONS FOR ISSUANCE OF PERMITS

The applicant must comply with the following:

- A. No permits will be issued by the Borough Clerk unless applied for prior to five (5) business days before the requested filming date; provided, however, that the Borough Clerk may waive the five day period if, in his or her judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.
- B. Clean-up: The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site.
- C. Filming on Private Property: An applicant is required to obtain the property owner's permission, consent, and/or lease for use of property not owned or controlled by the Borough.
- D. Public Works Department (Road and Streets): If the applicant must park equipment, trucks, and/or cars in zones that will not permit it, temporary "No Parking" Signs must be posted. The applicant must also obtain permission to string cable across sidewalks, or from generator to service point.
- E. Traffic Control: For filming that would impair traffic flow, an applicant must hire one or more off duty Westwood Police Officer(s) through the office of the Police Chief and comply with all traffic control requirements deemed necessary.
- F. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands, streets and sidewalks and shall comply with all lawful directives issued by the Westwood Police Department with respect thereto.

- G. Emergency Construction: Any emergency roadwork or construction by Borough or County crews and/or private contractors, under permit or contract to the appropriate department, shall have priority over filming activities.
- H. Parking Lots and Metered Spots: When parking in a parking lot or metered spot, an applicant may be billed according to the current rate schedule established by Borough.
- I. Notification: All residents and merchants within a 200 feet radius of the film location must receive notice of filming at least 48 hours prior to the first day of filming. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands.
- J. Filming in residential zones shall be permitted only between the hours of 7:00 a.m. and 9:00 p.m. provided that all requests for night scenes shall be approved in the permit. The set-up, production and break-down required by all filming shall be included in the hours as set forth herein.
- K. The Borough Clerk may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Clerk shall consider the following factors:
 - (1) Traffic congestion at the location caused by vehicles to be parked on the public street;
 - (2) Applicant's ability to remove film-related vehicles off the public streets;
 - (3) When the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming;
 - (4) Nature of the film shoot itself: e.g., indoor or outdoors: day or night; and
 - (5) Prior experience of the film company/applicant with the Borough, if any.
- L. Copies of the approved permit will be sent to the Borough of Westwood Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Department or other Borough inspectors to inspect the site and the equipment to be used. The applicant shall comply with all safety instruction issued by the Fire Department or other Borough inspectors. A fire extinguisher must be maintained on site at all times.

- M. In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the Borough was prevented from earning because of filming.
- N. If an applicant wishes to utilize Bergen County property within the Borough of Westwood, the applicant must obtain a Permit from the Bergen County Film Commission and the Borough of Westwood.
- O. Weapons: If weapons, including but not limited to guns, knives, swords, cannons, machetes, rifles, and bow and arrows, are used during filming, the applicant must notify the Borough of Westwood Police Department of same, even if these weapons are only props.
- P. Pyrotechnics: If an applicant wishes to use pyrotechnics, they must submit their plan, including the date, time, location and amount of explosives, to the Borough of Westwood Fire Chief.

109-7. FEES

- A. Permit:
 - (1) Basic Filming Permit:
 - a. Two Hundred Fifty Dollars (\$250.00) per day.
 - b. Charitable and Student Produced Film Permit: Twenty-Five Dollars (\$25.00) per day.
 - (2) Daily filming fee payable in addition to the basic filing permit fee:
 - a. Five Hundred Dollars (\$500) per day.
 - b. Fees for applicants producing Charitable and Student Films are waived.

109-8. VIOLATIONS AND PENALTIES

- A. Any person violating this chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding one-thousand dollars (\$1,000) per day or by imprisonment in the County Jail for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B. If any section, subsection, part, clause or phrase of this Ordinance shall be declared invalid by judgment of any court of competent jurisdiction, such section, subsection, part, clause or phrase shall be deemed to be severable from the remainder of this Ordinance.

109-10 RIGHT TO APPEAL

Any person aggrieved by a decision of the Borough Clerk denying or revoking a permit or a person requesting relief pursuant to 109.6 may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Clerk. An appeal from the decision of the Clerk shall be filed within ten (10) calendar days of the Clerk's decision. The Borough Council shall set the matter down for a hearing within ten (10) calendar days of the day on which the notice of appeal was filed. The decision of the Borough Council shall be in the form of a resolution supporting the decisions of the Borough Clerk at the first regularly scheduled public meeting of the Borough Council after the hearing of the appeal, unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted within the time required, the decision of the Clerk shall be deemed to be reversed, and a permit shall be issued in conformity with the application or the relief pursuant to Subsection "F" hereof shall be deemed denied.

109-11 SEVERABILITY

If any sentence, section, clause or other portion of this ordinance or the application thereof to any person or circumstance shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this ordinance.

This Ordinance shall take effect immediately upon final passage and publication as required by law.

Approved: _____

Attest:

John Birkner, Jr., Mayor

Karen Hughes, Borough Clerk

**Office of the Municipal Clerk
Borough of Westwood, NJ**

License: _____
Date: _____

APPLICATION FOR FILMING

Company Name: _____

Business Address: _____

Contact Person (Name and Title): _____

Telephone: _____ Fax: _____ E-Mail: _____

Secondary Contact Person (Name and Title): _____

Telephone: _____ Fax: _____ E-Mail: _____

Date(s) of Filming: _____

Hours of Filming: _____

Location(s) of Filming (describe in detail): _____

Description of Filming (describe in detail): _____

\$500 Bond _____ (or) \$1000 Maintenance Bond _____

Bonding Agent: _____ Check Received by: _____

How many vehicles will be on location? _____

Description of Vehicles (describe in detail): _____

How many Cast/Crew will be on location? _____

☐ Will residents or businesses be affected by filming? Yes _____ No _____

[A copy of letter(s) to be sent to affected individual(s) and addresses of same must accompany this application.]

☐ Do you have a licensed electrician on staff: Yes _____ No _____

How will you obtain your power (describe in detail): _____

☐ Are existing power lines to be utilized? Yes _____ No _____

☐ Will traffic be affected as a result of filming? Yes _____ No _____
[If "Yes," an off-duty police officer is required.]

☐ Will you be using pyrotechnics? Yes _____ No _____
[If "Yes," the plan must be submitted to the Fire Chief.]

☐ Will you be using animals? Yes _____ No _____

☐ Have you ever been convicted of a crime? Yes _____ No _____

BOROUGH OF WESTWOOD

OFFICE OF THE MUNICIPAL CLERK

**REQUIRED INSURANCE PRIOR TO USE OF
BOROUGH FACILITIES AND LOCATIONS**

Permission to use Borough facilities shall not be granted unless the completed application form, fee, and required proof of insurance coverage is received by the Municipal Clerk prior to the close of business at least 48 hours before the shooting date requested.

FAILURE TO DELIVER PROOF OF REQUIRED INSURANCE COVERAGE WILL
RESULT IN CANCELLATION OF TENTATIVE RESERVATION.

INSURANCE REQUIRED

- | | | | |
|----|------------------|----|--|
| 1. | BODILY INJURY: | A. | For any one (1) person, the amount of \$500,000 |
| | | B. | For any occurrence, in the amount of \$1,000,000 |
| 2. | PROPERTY DAMAGE: | A. | For any one (1) accident, in the amount of \$100,000 |
| | | B. | For any aggregate occurrence, in the amount of \$300,000 |

**THE FOLLOWING STATEMENT MUST BE SIGNED AND NOTARIZED AND IS
MADE AN INTEGRAL PART OF THE ATTACHED APPLICATION:**

Agrees to indemnify and save harmless:

(Name of Organization)

its members and agents from any and all liability for damages, for injury to the person or property of its owner or another and against and from all suits and actions and all costs and damages (including, without limitation, attorneys' fees and loss of business claims) to which the Borough of Westwood may be put resulting from use of Borough facilities and/or locations.

Signed _____

Title _____

Date _____

SAMPLE LETTER OF INTENT

COMPANY LETTERHEAD

To: Neighbors of _____
(Address)

From: Company Contact Person

Date: _____

Re: Filming Commercial for _____ or _____
(Product) (Name of Movie)

Our company has applied to film a commercial (or movie) in Westwood on day(s) and date(s) at the above location.

There will be ____ trucks, ____ vans, ____ generators, ____ catering trucks, ____ crew cars (or any special equipment, i.e., condors. Mobile homes, etc.) at the site. They will be parked:

1. On the property of the homeowner;
2. On the street;
3. In a municipal parking lot;
4. On private property; or
5. Any combination of the above.

In compliance with the Borough filming ordinance, no vehicles will arrive before 7:00 a.m. and all activity and vehicles connected with the filming will be gone by 9:00 p.m. For the public's safety, there will be a police officer on duty during the shoot.

If you have any questions or concerns, I may be reached at _____, or you may call Karen Hughes at the Westwood Municipal Clerk's Office at (201) 664-7100 X 101.

Thank you.